



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/444,120	11/19/1999	YOSHIHIKO SHIODA	019441.023	8235

7590 11/30/2001

DALBERT U SHEFTE
KENNEDY COVINGTON LOBDELL AND HICKMAN
4200 BANK OF AMERICA CORPORATE CENTER
100 N TRYON STREET
CHARLOTTE, NC 282024006

EXAMINER

GORDON, RAEANN

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 11/30/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

<h2 style="margin: 0;">Office Action Summary</h2>	Application No. 09/444,120	Applicant(s) Yoshihiko Shioda	Examiner Raeann Gorden	Art Unit 3711
				
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>				
Period for Reply				
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 				
Status				
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Sep 21, 2001</u>				
2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.				
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> 1035 C.D. 11; 453 O.G. 213.				
Disposition of Claims				
4) <input checked="" type="checkbox"/> Claim(s) <u>1-28</u> is/are pending in the application.				
4a) Of the above, claim(s) <u>2-6, 11-17, and 24-28</u> is/are withdrawn from consideration.				
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.				
6) <input checked="" type="checkbox"/> Claim(s) <u>1 and 18-23</u> is/are rejected.				
7) <input checked="" type="checkbox"/> Claim(s) <u>7-10</u> is/are objected to.				
8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.				
Application Papers				
9) <input type="checkbox"/> The specification is objected to by the Examiner.				
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.				
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.				
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.				
Priority under 35 U.S.C. § 119				
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).				
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:				
1. <input type="checkbox"/> Certified copies of the priority documents have been received.				
2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.				
3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).				
*See the attached detailed Office action for a list of the certified copies not received.				
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).				
Attachment(s)				
15) <input type="checkbox"/> Notice of References Cited (PTO-892)				
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)				
17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____				
18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____				
19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)				
20) <input type="checkbox"/> Other: _____				

Art Unit: 3711

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 7-10, and 18-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Is applicant claiming the golf club as part of the invention?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 18, 21, 23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by McLaughlin and Clements (each). McLaughlin and Clements disclose tethered ball hitting practice aids comprising a base, a frame extending upward, an arm extending parallel to the ground, and a flexible cord. A tethered ball is attached to the flexible cord. The attached golf ball may have a diameter of least 1.68 inches or more (USGA Golf Ball Specifications).

Art Unit: 3711

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clements. Clements discloses the invention as shown above but fails to include the height of the frame. It is obvious the height of the frame could be modified to fall between 1 ½ and 5 feet to allow accommodate users with different heights.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clements or McLaughlin in view of Miles. Clements and McLaughlin disclose the invention but fail to show the ball connected to the base. However, Miles teaches a ball connected at opposite ends by a flexible cord. One skilled in the art would have attached the ball with an additional cord in order to restrain the ball from movement during the swing.

Allowable Subject Matter

8. Claims 7-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Art Unit: 3711

Response to Arguments

9. Applicant's arguments filed 9-21-01 have been fully considered but they are not persuasive. Applicant argues the prior art does not teach the combination of a golf swing technique and golf strengthening by the use of an object at least the size of a baseball. The method of use or results from using an apparatus is not relevant to the claims. Applicant is claiming an apparatus; therefore the structural limitations set forth in the claims will be considered. The prior art of record, in particular McLaughlin and Clement, clearly discloses applicant's invention. Both patents disclose a practice device comprising a base, a frame extending upward, an arm extending parallel to the ground, and a flexible cord. A tethered ball is attached to the flexible cord. Applicant further claims the ball must be at least the size of a baseball. As stated above, the golf ball shown in the McLaughlin patent would encompass the limitation since the minimum diameter of a golf ball is 1.68 inches.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is (703) 308-8354. The examiner can normally be reached Monday-Fridays from 8:30 AM to 6:00 PM.

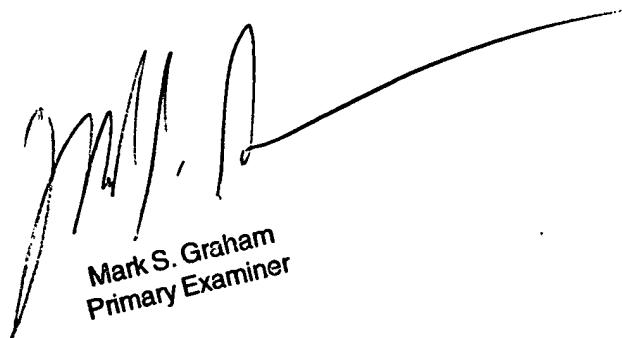
Art Unit: 3711

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on 703-308-2126. The fax number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

rg

November 26, 2001



A handwritten signature in black ink, appearing to read "M.S. Graham". Below the signature, the text "Mark S. Graham" and "Primary Examiner" is printed in a standard font.

Mark S. Graham
Primary Examiner